



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 173957

PRELIMINARY RECITALS

On April 29, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5)(a), to challenge a decision by the Milwaukee Enrollment Services regarding Medical Assistance. The hearing was held on May 24, 2016, by telephone.

The issue for determination is whether the evidence demonstrates that the BadgerCare+ eligibility of Petitioner and his family was correctly discontinued.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. The agency received a State wage match in early 2016 that led to a request for verification of income. This led to a February 22, 2016 verification request with a due date of March 2, 2016.
3. The agency did not receive all of the verification it was looking for, so sent a notice of decision dated March 3, 2016 informing Petitioner that BadgerCare+ would be discontinued effective April 1, 2016 because the household was over income and because of a failure to verify.
4. Petitioner is seeking BadgerCare+ eligibility for his children; he and his spouse have insurance through the Federal marketplace.
5. Petitioner's household size is 5 – parents and 3 children.
6. Petitioner is self-employed and income fluctuates – it is highest during tax season.

DISCUSSION

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults. Children in a household with income over 201% of the Federal Poverty Level have to pay a premium. 100% of the Federal Poverty Level for a 5 person household is \$2370.00 per month as of February 1, 2016 and 201% is \$4763.70. *BadgerCare+ Eligibility Handbook (BEH)*, §50.1.

Under modified adjusted gross income rules the following deductions form page 1 of Federal Tax Form 1040 are allowed:

1. Student Loan Interest
2. Higher Education Expenses
3. Self-employment Tax Deduction
4. Spousal Support, Alimony or Maintenance
5. Teachers' Tax-Deductible Expenses
6. Self-employed SEP, Simple or Qualified Plan Contributions
7. Penalties for Early Withdrawal of Funds
8. Performing Artists Tax-deductible Expenses
9. Military Reserve Members' Tax-deductible Expenses
10. Out-of-pocket Costs for a Job-related Move
11. Loss from Sale of Business Property
12. Individual Retirement Account (IRA) Contributions
13. Fee-based Official Tax-deductible Expenses
14. Domestic Production Activities Deduction
15. Allowable Write-in Expenses

See BEH, §16.3.3.

Further, the following pretax payroll deductions are allowed:

1. Health Insurance premium payments, including pre-tax premium payments for medical, dental or vision plans
2. Health Savings Account (including flexible spending accounts) contributions
3. Retirement contributions
4. Parking & Transit costs
5. Child Care Savings Account contributions

6. Group Life Insurance premium payments
See BEH, §16.3.2.

Beyond these BadgerCare+ general program basics there are also complex rules on computing self-employment income. *See BEH, §16.4.3.* There also policies on fluctuating income and premium calculations for children. *See BEH, §16.6 and §19.2, respectively.* Also applicable here are provisions concerning BadgerCare+ extensions. *See BEH, Chapter 18.*

Quite frankly, I cannot tell what the agency did with this case. What Petitioner is looking for – BadgerCare+ for his children, and for which he is willing to pay a premium - does not seem have to have determined. The agency needs to reevaluate this case and do whatever is necessary to make a determination about the BadgerCare+ eligibility and premium for Petitioner's children.

CONCLUSIONS OF LAW

That the evidence does not demonstrate that the BadgerCare+ for Petitioner's children was correctly discontinued. The BadgerCare+ eligibility for Petitioner and his spouse is a non-issue as they have insurance through the marketplace.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to do whatever is necessary to make a determination about the BadgerCare+ eligibility and premium for Petitioner's children. The agency must begin this process within 10 days of the date of this decision and conclude it following all timelines directed by the BEH. Petitioner may again appeal if the results of the new determination are adverse.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

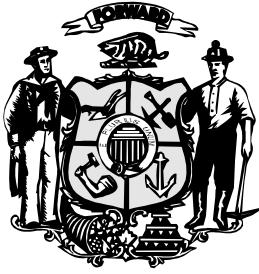
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES

IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this _____ day of July, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 15, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability